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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

02-346-B (formerly R-258-DB)

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on

2-21-06

Signature

Donna Miller

Typed or printed
name

Donna Miller

Application Number

09/922,425

Filed

August 3, 2001

First Named Inventor

Mittman

Art Unit

3622

Examiner

Retta

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of 1 forms are submitted.

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PATENT
02-346-B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mittman et al. Examiner: Yehdega Retta
Serial No.: 09/922,425 Group Art Unit: 3622
Title: MEDIA PURCHASE GOAL
CORRELATION SYSTEM
Filed: August 3, 2001

**ATTACHMENT TO PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

The instant invention measures the response to advertising placed in movies, video, television, interactive television, radio or print media in a specific geographic area for the length of time the advertising is placed in the media plus a predetermined residual period. The geographic area of response is determined from the IP addresses of the individual responders. Applicant submits that this invention is different from all prior art and not obvious in view of the prior art.

More specifically, the Applicant submits that the Examiner has not cited references that render the instant invention as a whole obvious.

First, the references do not include each and every element of the instant invention. Missing elements are identified below in bold.

1. **An advertising media purchase.** From the *Advertising Age* article, it is clear that Intel's ad campaign was not intended to directly sell chips to end users. It is well known, and reflected in the article, that Intel sells chips to computer makers, who incorporate the chips into computers and sell them to end users. Intel's ad campaign was directed to business buyers and had to be, therefore, purely informational in nature: it was intended "to make Pentium II the standard in business PCs this year."¹ It is clear from the Application that **an advertising media purchase** is

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an offer by a merchant to sell a good or service to a potential customer, i.e. an “end user”.

Applicant submits that, therefore, the *Advertising Age* article does not disclose **an advertising media purchase** as this term is used in the instant Application. In the “Response to Arguments” section of the latest Office Action, the Examiner does not actually address this critical distinction.

2. Placed in either of movies, video, television, interactive television, radio and print media.

The *Advertising Age* article only mentions advertisements placed in print media and on banner ads². The only commonality between these lists is “print media”. Applicant submits that an advertisement placed in print media is not as a whole equivalent to an advertisement placed in **either of movies, video, television, interactive television, radio and print media**. In the “Response to Arguments” section of the latest Office Action, the Examiner states that placing ads in the New York Times, USA Today, The Wall Street Journal and other business magazines is the same as **either of movies, video, television, interactive television, radio and print media**. This is a nonsensical argument, since all the items mentioned in the article are newspapers and magazines which are clearly print media.

3. Plurality of media purchases. The *Advertising Age* article deals only with a single ad campaign. There is no hint that Intel planned more than this campaign or that they intended to promote other than the Pentium II. In contrast the whole thrust of the instant Application is a system for evaluating the effectiveness of advertising. This system is applied to media purchases for different goods and services in many geographic locations on a continuing basis. Therefore it applies to a **plurality of media purchases**.

4. Residual period. The *Advertising Age* article talks about start dates for the ad campaigns and the end date for the US print campaign. But it says nothing about the **residual period**. As can be seen from the Figures of the instant Application, the **residual period** is a predefined period after the end date during which advertising may still be effective. In other words a purchaser may see the media purchase on a date before the end date but may not respond to it until a date after the end date. It is highly useful to measure such “delayed” response. However,

² It is well known that banner ads are placed on web pages.

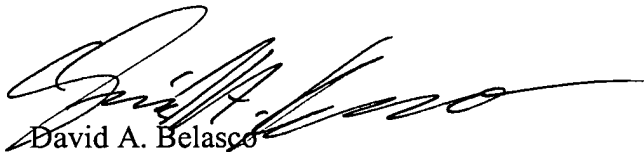
the *Advertising Age* article does not recognize this fact. In the “Response to Arguments” section of the latest Office Action, the Examiner states that the **residual period** is taught in *Muret et al.* and not in the *Advertising Age* article. This was entirely unclear in any of the previous Office Actions. None of the specific citations to *Muret et al.* said anything about a **residual period** as it is defined in the instant Application. In the latest Office Action the Examiner cites a section subtitled “Real-Time Reporting”. In fact *Muret et al.* teach a system for monitoring Internet traffic to identify sales volume by web site over time. Nowhere do *Muret et al.* talk about delayed response to an advertisement and they never teach a **residual period** as defined in the instant Application.

5. Grouping of geographic locations into uniform stated geographic areas and a second database containing records correlating Internet Protocol addresses of Internet users with stated geographic areas. From the Figures of the instant Application it can be seen that a stated geographic area must be meaningful such as Los Angeles, California. *Houri* does not teach grouping the geographic locations of IP addresses into uniform stated geographic areas. *Houri* includes much discussion about IP addresses, their geographic locations and their connections but nowhere does *Houri* talk about grouping of geographic locations of IP address into uniform stated geographic areas. In the “Response to Arguments” section of the latest Office Action, the Examiner made specific citations to *Houri*. But neither of these specific citations even hints at grouping of IP addresses into uniform stated geographic areas.

Second, the references contain no suggestion to combine them as suggested by the Examiner. The *Advertising Age* article is simply a news report and, as such makes no further suggestions of any sort. *Houri* obtains information by querying user terminals that are connected to the Internet. See Figure 1A. *Muret et al.* obtain their information “by reading log files produced by web servers or by interfacing with the web server in real time.” See Abstract. Such disparate inventions cannot be combined in any meaningful way. In the “Response to Arguments” section of the latest Office Action, the Examiner states: “In this case, the motivation to combine is taught by the prior art, as indicated in the rejection above.” There is absolutely no support for this bald conclusory statement in the latest rejection. Further, the legal citations that the Examiner provides bolster the Applicant’s case not the Examiner’s. *In re Fine* and *In re Jones* stand for the proposition that there must be some objective teaching or generally available knowledge that

would lead one skilled in the art to combine teachings of existing references in order for the PTO to establish a prima facie case of obviousness. The Examiner has not shown that there are any specific teachings in the prior art or any motivation to combine them in the way suggested by the Examiner. In sharp contrast, the Applicant has clearly demonstrated several times that the prior art references do not include each and every element of the claimed invention and that the prior art functions in such different ways that they cannot be meaningfully combined. In such a situation an obviousness rejection cannot stand. The Applicant therefore respectfully requests that this rejection be reversed and that the instant Application be allowed.

Respectfully submitted,



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